

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>TERA A. McMILLAN,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No: 2:07:CV-01-WKW</b>
	)	
<b>vs.</b>	)	
	)	
<b>ALABAMA DEPARTMENT OF</b>	)	
<b>YOUTH SERVICES and</b>	)	
<b>MICHAEL J. HARDY,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

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<b>MICHAEL HARDY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Case No: 02:08-CV-15 MHT</b>
<b>vs.</b>	)	
	)	
<b>J. WALTER WOOD, Jr., et., al.</b>	)	
	)	
<b>Defendants.</b>	)	

**MOTION TO CONSOLIDATE**

COME NOW Defendants Alabama Department of Youth Services and J. Walter Wood, Jr. in the above referenced cases, by counsel, and moves this Honorable Court, pursuant to Rule 42 (a), Fed.R.Civ.P., to consolidate the above referenced cases.

Rule 42(a) provides consolidation of actions before the court if such actions involve a common question of law or fact. A court's decision to consolidate cases under

Rule 42(a) is discretionary. *Young v. City of Augusta*, 59 F.3d 1160, 1168 (11<sup>th</sup> Cir. 1995); *Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495 (11<sup>th</sup> Cir. 1985). When exercising that discretion, 11<sup>th</sup> Circuit courts weigh the potential risk of prejudice and confusion caused by consolidation against the risk of inconsistent rulings on common factual and legal questions, the burden on the parties and the court, the length of time, and the relative expense of proceeding with separate lawsuits if they are not consolidated. *Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495 (11<sup>th</sup> Cir. 1985)

Consolidation of McMillan and Hardy would serve the interests of judicial economy because the cases have a common question of fact in that both cases involve the sexual harassment investigation Tera McMillan initiated against Michael Hardy and outcome and/or aftermath of said investigation. The cases involve the same witnesses and arise out of the same series of events. Consolidation of the two cases would avoid unnecessary costs or delay and trials containing duplicative witnesses and evidence.

For the foregoing reasons, the Alabama Department of Youth Services and J. Walter Wood, Jr., move this Honorable Court to consolidate these cases.

DONE this 7<sup>th</sup> day of March, 2008

Respectfully submitted,

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**s/ T. Dudley Perry Jr.**

T. Dudley Perry, Jr.

Bar Number: 3985-R67T

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Attorney for the Defendant

Alabama Department of Youth Services &

J. Walter Wood, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of March, 2008, I electronically filed the foregoing, MOTION TO CONSOLIDATE with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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